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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.       |
|--|-------------|----------------------|---------------------|------------------------|
| 10/570,809   | 03/06/2006  | Ian David Wood       | KEL036PA            | 4883                   |
| 29673  | 7590        | 03/27/2009           | EXAMINER            |                        |
| STEVENS & SHOWALTER LLP<br>7019 CORPORATE WAY<br>DAYTON, OH 45459-4238 |             |                      |                     | AYRES, TIMOTHY MICHAEL |
| ART UNIT   |             | PAPER NUMBER         |                     |                        |
| 3637   |             |                      |                     |                        |
| MAIL DATE  |             | DELIVERY MODE        |                     |                        |
| 03/27/2009   |             | PAPER                |                     |                        |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/570,809             | WOOD, IAN DAVID     |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | TIMOTHY M. AYRES       | 3637                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/6/06</u> .  | 6) <input type="checkbox"/> Other: ____ .                         |

## **DETAILED ACTION**

This is a first office action on the merits of application SN 10/570,809.

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the background section of the invention on pages 7-8 there is discussion of expected deformation and wear of a typical seal

configuration. This discussion is then expanded when the designing of the seals of the four related WIPO publication was done and why they had the configuration they did to reduce wear on the seal that would teach away from the current configuration. While the applicant does specify an advantage of this current configuration of seals over the others there appears to be no discussion of this wear problem.

4. Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. While anti-magnetic materials are known the applicant does not describe how its particular location to the magnet affects the poles in reducing seal distortion.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 4 recites the limitation "a sealing loop" in line 2. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 5-10, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by WIPO Publication WO 02/073104 to Wood. Wood teaches a refrigerator having a container and a closure. A sealing loop (60) can have magnetic means (Wood '104, page 14, lines 20-27) and the other surface on the container that the sealing loop (60) cooperates with is the second sealing loop.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-10, 12, 13, and 16-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over United Kingdom Patent GB 602,329 to Earle in view of US Patent 3,055,193 to Smith. Earle teaches a refrigerator having a container (41) and a closure (54). The upper edges of the container (41) make a snug fit with the lower edge of the closure (54). These edges are considered to be the sealing loops. Earle does not expressly disclose the sealing loops include magnetic means. Smith teaches a sealing loop (14) having a magnetic means (34) and a strip heating element (30). At the time of the invention it would have been obvious for a person of ordinary skill in the art to

modify the refrigerator of Earle by adding the sealing loop of Smith to edge of the container or closure to increase the energy efficiency by creating a better seal.

11. Regarding claim 18, the examiner is taking Official Notice that is well known to use antimagnetic materials next to magnets to control the direction of flux from pole to pole and preventing unwanted attraction of ferrous materials. Therefore at the time of the invention it would have been obvious for a person of ordinary skill in the art to add anti-magnetic material to the backside of the seals to prevent unwanted attachment of other ferrous materials.

12. Regarding claims 24 and 25, the examiner is taking Official Notice that it is well known to have a downward flange of insulation on the inside of a door edge next to a seal to help increase the energy efficiency and/or protect the interior of the container from extreme thermal variances. Therefore at the time of the invention it would have been obvious for a person of ordinary skill in the art to add a downward flange to the closure as an insulating barrier to help increase the energy efficiency of the seal.

13. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over United Kingdom Patent GB 602,329 to Earle in view of US Patent 3,055,193 to Smith as applied to claims 1-10, 12, 13, 16, 17, and 19-26 above, and further in view of US Patent 4,538,380 to Colliander. Earle in view of Smith discloses every element as claimed and discussed above except parallel ridges. Colliander teaches a seal with ridges (41) as seen in figure 6. At the time of the invention it would have been obvious

for a person of ordinary skill in the art to modify the refrigerator of Earle in view of Smith by adding the ridges to the seal as taught by Colliander to reduce friction.

14. Claims 1-18, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over United Kingdom Patent GB 602,329 to Earle in view of US Patent 5,309,680 to Kiel. Earle teaches a refrigerator having a container (41) and a closure (54). The upper edges of the container (41) make a snug fit with the lower edge of the closure (54). These edges are considered to be the sealing loops. Earle does not expressly disclose the sealing loops include magnetic means. Kiel teaches two cooperating sealing loops (36,38) each having magnetic means (44,66). The sealing loop (38) has ridges next to the web as seen in figures 3 and 5. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the refrigerator of Earle by adding the sealing loops of Kiel to edge of the container and closure to increase the energy efficiency by creating a better seal.

15. Regarding claim 18, the examiner is taking Official Notice that is well known to use antimagnetic materials next to magnets to control the direction of flux from pole to pole. Therefore at the time of the invention it would have been obvious for a person of ordinary skill in the art to add anti-magnetic material to the backside of the seals to prevent unwanted attachment of other ferrous materials.

16. Regarding claims 24 and 25, the examiner is taking Official Notice that it is well known to have a downward flange of insulation on the inside of a door edge next to a

seal to help increase the energy efficiency and/or protect the interior of the container from extreme thermal variances. Therefore at the time of the invention it would have been obvious for a person of ordinary skill in the art to add a downward flange to the closure as an insulating barrier to help increase the energy efficiency of the seal.

17. Claims 1-18, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over United Kingdom Patent GB 602,329 to Earle in view of US Patent 5,816,080 to Jeziorowski. Earle teaches a refrigerator having a container (41) and a closure (54). The upper edges of the container (41) make a snug fit with the lower edge of the closure (54). These edges are considered to be the sealing loops. Earle does not expressly disclose the sealing loops include magnetic means. Jeziorowski teaches two cooperating sealing loops (54) each having magnetic means (118,120). The sealing loop (54) has resilient webs (106,108,110,112). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the refrigerator of Earle by adding the sealing loops of Jeziorowski to edge of the container and closure to increase the energy efficiency by creating a better seal.

18. Regarding claim 18, the examiner is taking Official Notice that is well known to use antimagnetic materials next to magnets to control the direction of flux from pole to pole. Therefore at the time of the invention it would have been obvious for a person of ordinary skill in the art to add anti-magnetic material to the backside of the seals to prevent unwanted attachment of other ferrous materials.

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19. Regarding claims 24 and 25, the examiner is taking Official Notice that it is well known to have a downward flange of insulation on the inside of a door edge next to a seal to help increase the energy efficiency and/or protect the interior of the container from extreme thermal variances. Therefore at the time of the invention it would have been obvious for a person of ordinary skill in the art to add a downward flange to the closure as an insulating barrier to help increase the energy efficiency of the seal.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY M. AYRES whose telephone number is (571)272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. M. A./  
Examiner, Art Unit 3637  
3/24/2009

/Janet M. Wilkens/  
Primary Examiner, Art Unit 3637